

Minutes of the County Commissioners of Worcester County, Maryland

November 19, 2024

Anthony W. Bertino, Jr., president
Madison J. Bunting, Jr., vice president
Caryn G. Abbott
Theodore J. Elder
Eric J. Fiori
Joseph M. Mitrecic (Absent)
Diana Purnell

Following a motion by Commissioner Elder, seconded by Commissioner Bunting, with Commissioner Mitrecic absent, the commissioners unanimously voted to meet in closed session at 9:00 a.m. in the Commissioners' Conference Room to discuss legal and personnel matters permitted under the provisions of Section 3-305(b)(1) and (7) of the General Provisions (GP) Article of the Annotated Code of Maryland and to perform administrative functions permitted under the provisions of Section GP 3-104. Also present at the closed session were Chief Administrative Officer Weston Young, Deputy Chief Administrative Officer Candace Savage, County Attorney Roscoe Leslie, Public Information Officer Kim Moses, and Human Resources Director Stacey Norton and Deputy Director Pat Walls. Topics discussed and actions taken included the following: personnel update, hiring Gregory Lilly as a plant operator trainee within the Water and Wastewater Division and Dhara Patel as a senior budget accountant within County Administration; receiving legal advice from counsel; and performing administrative functions, including discussing potential board appointments.

Commissioner Mitrecic was absent from the November 19, 2024 open and closed session meetings.

Following a motion by Commissioner Elder, seconded by Commissioner Bunting, the commissioners unanimously voted to adjourn their closed session at 10:02 a.m.

After the closed session, the commissioners reconvened in open session. Commissioner Bertino called the meeting to order, and following a morning prayer by Pastor Zachary Brown, of Bates and Trinity United Methodist Churches of Newark and Snow Hill, and pledge of allegiance, announced the topics discussed during the morning closed session.

The commissioners reviewed and approved the open and closed session minutes of their November 6, 2024 meeting as presented.

The commissioners presented a proclamation recognizing November 18-22, 2024 as American Education Week to Worcester County Teachers Association President Beth Shockley Lynch.

Upon a motion by Commissioner Abbott, the commissioners unanimously approved by consent agenda item numbers 2-9 as follows: applying for a \$2,000 Rocket Lab Community

Grant for a Recreation and Parks event, Rockets & Robots STEM Festival on March 25, 2025; signing a Rural Maryland Prosperity Investment Fund Grant Agreement for a \$100,000 grant from the Tri-County Council for the Worcester County Skilled Trades, Agriculture, Tourism, and Technology Program; an over-expenditure of \$3,500 within the Roads Division of Public Works for tipping fees; a contract from Lywood Automation, LLC for \$127,275 to replace the control panel at Pump Station E in the Mystic Harbour Sanitary Service Area; Rezoning Case No. 446 Findings of Fact and Resolution to rezone certain parcels of land identified on Tax Map 40 as Parcel 241, Lot C and Parcel 93 from A-1 to A-2 Agricultural District; issuing bid specifications for Mystic Harbour Wastewater Treatment Plant biosolids upgrade; issuing bid specifications for the purchase and installation of a new Countywide camera system; and renewing the Darktrace email and cloud security contract.

Environmental Programs Director Bob Mitchell and Kevin Smith, executive director of the Maryland Coastal Bays Program (MCBP), asked the commissioners to issue a letter supporting the MCBP's application for a Department of Natural Resources (DNR) Whole Watershed Fund grant for up to \$1 million annually for five years. Funds would be used for a project to restore water quality and shallow water habitat in the Newport Bay.

Commissioner Bertino stated that the Town of Ocean City and the County strongly oppose a US Wind application for a license to construct a pier in the West Ocean City commercial harbor, as well as the installation of turbines off the coast of Ocean City due to the detrimental effects to the commercial and recreational fishing industries, the West Ocean City commercial harbor, tourism, and the economy. He stated that approval of the application would decimate the commercial fishing industry on Maryland's coast, the only ocean entry for offloading seafood. He then asked Mr. Smith whether the MCPB stands in support of the County and Ocean City's opposition to turbines and if the MCBP has a relationship with US Wind. Mr. Smith clarified that the MCBP supports the local commercial fishing industry. However, they are not an advocacy organization, but a consensus organization that is made up and fueled by State, federal, and local government and that maintains a neutral position on the project. He also confirmed that the MCBP has accepted US Wind donations totaling \$125,000 over the past three years. He later stated that the MCBP would take a position if they felt there would be a deleterious effect on the bays, as they support clean, alternative energy sources, as stated in the organization's management plan. Furthermore, Mr. Smith stated that the MCBP had done its homework regarding wind and other energy sources, that he knew of no energy source that has no negative impact, and that the County needs to look at other alternatives. He questioned how as a County they were going to meet their energy needs.

Commissioner Fiori supported the work of the MCBP, recognized the importance of preserving the Coastal Bays, and understood the organization's need to remain neutral.

Commissioner Bunting stated that in 14 years he has seen the MCBP support a lot of issues that were not unlike windmills.

In response to a question by Commissioner Bertino, Mr. Smith agreed to convene the MCBP board to discuss and determine whether there was support for the commissioners' request.

Commissioner Elder recognized the great work being done by the MCBP. However, he noted that the MCBP basically sold its soul to the devil when they accepted money from US Wind due to the deleterious impact of the turbines on ocean life. He pointed out that anything

that occurs off the Atlantic coast affects the bays. He concluded that the MCBP should be on board with the County and the fishing industry and urged them to return US Wind's donations.

Commissioner Abbott expressed her support of the good work being done by the MCBP, but that it is disheartening when an environmental group in the County is accepting money from US Wind. In response, Mr. Smith noted that there were no strings attached to US Wind's donations to the MCBP. He then explained that the money was used to restore nesting places to combat the precipitous drop in iconic coastal birds. He stated that the donations were spent on a project to bring back the common tern population, an issue that is here and now in the Coastal Bays, and the MCBP was fortunate to have those funds. Commissioner Elder pointed to the documented destruction of birds due to wind turbines and questioned how many more birds would be killed if turbines were erected off Maryland's coast.

In response to a question by Commissioner Abbott, Mr. Smith stated that the application is due by December 3, 2024. Commissioner Bertino stated that he would like to see the cooperative relationship that the commissioners and the MCBP have had for decades continue. He then clarified his request for the MCBP Board and policy folks to address the concerns the commissioners have before they move forward. Commissioner Elder concurred. Mr. Smith stated that he would like to have the support of the County, but that the MCBP could potentially get the Town of Berlin to support their grant application.

Following much discussion, a motion by Commissioner Fiori to send a letter supporting the MCBP application for a Whole Watershed Fund Grant failed 2-1-3, with Commissioners Fiori and Purnell voting in favor, Commissioner Elder voting in opposition, and Commissioners Abbott, Bertino, and Bunting abstaining.

Pursuant to the request of Environmental Programs Director Bob Mitchell and upon a motion by Commissioner Elder, the commissioners unanimously approved the Memorandum of Understanding with the Town of Snow Hill for stormwater management inspections and enforcement.

The commissioners conducted a public hearing for Emergency Bill 24-09 (Zoning – cannabis dispensaries), which was introduced by Commissioners Abbott, Bertino, Bunting, Elder, Fiori, Mitrecic, and Purnell on October 15, 2024. Development Review and Permitting Director Jennifer Keener reviewed the legislation, which would specify cannabis dispensaries as a special exception use in certain zoning districts and modify the off-street parking and stacking space requirements for cannabis dispensaries.

Commissioner Bertino opened the floor to receive public comment.

There being no public comment, Commissioner Bertino closed the public hearing.

Upon a motion by Commissioner Abbott, the commissioners adopted Emergency Bill 24-09 as presented.

The commissioners conducted a public hearing to receive comments on the adoption of cable franchise agreements. County Attorney Roscoe Leslie reviewed the draft franchise agreement with Talkie Communications for cable television service in the County. He explained that the County will receive 5% of the gross revenue generated from Talkie's television services, which will be provided through the same infrastructure being installed for the organization's broadband services. He noted that a public hearing, while not required, is a good practice and

agreed to present the commissioners with the contract from Mediacom when it becomes available.

Commissioner Bertino opened the floor to receive public comment.

There being no public comment, Commissioner Bertino closed the public hearing.

Upon a motion by Commissioner Elder, the commissioners unanimously approved the cable franchise agreement with Talkie.

Pursuant to the request of Public Works Director Dallas Baker and upon a motion by Commissioner Elder, the commissioners unanimously authorized the purchase of nine new Chevrolet Tahoes for the Sheriff's Office, including one from IG Burton for \$53,809 and eight from Hertrich Fleet at a cost of \$49,691 each. The commissioners further approved the use of Blue Tech, LLC to upfit these nine vehicles plus one additional police vehicle, which was purchased earlier in the month, for a total cost of \$240,454.90.

Pursuant to the request of Mr. Baker and upon a motion by Commissioner Abbott, the commissioners unanimously agreed to lower the speed limit on Brantley Road from 50 mph to 40 mph to address safety and speed related concerns.

Pursuant to the recommendation of Mr. Baker in response to a request from the Snug Harbor Civic Association, the commissioners unanimously agreed to designate Snug Harbor Road and Meadow Drive as No On-Street Parking to address safety and accessibility issues.

Finance Officer Phil Thompson met with the commissioners to review the FY24 valuation by Menard Consulting, Inc., noting that the County's Other Post Employment Benefits (OPEB) liability decreased by \$44.8 million in FY24 for a remaining total net OPEB liability of \$94.8 million for the Board of Education (BOE) and a weighted OPEB liability of \$72 million. The unfunded OPEB liability, which is the anticipated cost to the County to fund benefits for retired employees, was \$437 million in FY21. That liability decreased by \$365 million in just three years. Today the County Trust is fully funded and reflects a net asset of \$22.8 million.

Citing the recent upgrade from AA to AAA from Fitch Ratings, which can in part be attributed to the commissioners' commitment to reducing the OPEB liability, Chief Administrative Officer Weston Young stated that this liability has a direct impact on the County's credit rating, borrowing power, and interest rates on debt for capital construction projects, like the upcoming project to build a new Buckingham Elementary School (BES).

Commissioner Elder asked how the County's efforts to eliminate the OPEB liability compare with those of other Maryland jurisdictions. Mr. Thompson stated that the County is way ahead of the benchmark.

The commissioners discussed procurement issues concerning the upcoming bidding process for the design and construction of new school facilities by Worcester County Public Schools (WCPS). It was noted that WCPS has utilized quality-based selection practices with proposals for architectural and engineering design and for construction management and does not consider price as a factor when ranking proposals, so the award is not always made to the lowest, responsible bidder. It was further noted that in a 2017 Financial Management Practices Audit Report, the Department of Legislative Services recommended WCPS "revise its procurement

process for contracts for construction management services to require that awards be made to the lowest responsible bidder.” Given current cost projections and the substantial financial investment that Worcester County is making toward the BES construction project, Commissioner Abbott recommended Procurement Officer Nicholas Rice take part in the WCPS bid process.

Upon a motion by Commissioner Abbott, the commissioners unanimously directed Procurement Officer Nicholas Rice to take part in the WCPS bid process as a stipulation of County funding.

County Attorney Roscoe Leslie advised the commissioners that the U.S. Supreme Court issued a ruling in its last term that localities may impose criminal penalties for acts, like public camping and public sleeping without violating the Eighth Amendment, which prohibits cruel and unusual punishment. In response to comments by Mr. Leslie, the commissioners expressed interest in developing an anti-encampment ordinance in the County.

In response to concerns raised by Commissioner Abbott, County staff advised that they are in the process of posting hours of operation at each of the County parks.

Commissioner Elder requested the ordinance include language that a first offense would result only in a warning. In response to a question by Commissioner Elder, Mr. Leslie confirmed that the ordinance would identify encampment as a misdemeanor, not a felony.

Commissioner Purnell questioned if such an ordinance would be humane or if it would be more akin to punishing the homeless, particularly given the growing instances of homelessness and lack of housing in the County. In response, Mr. Leslie stated that the purpose of an ordinance would not necessarily be incarceration, but to provide law enforcement with a few more tools to correct the situation.

Upon a motion by Commissioner Bunting the commissioners unanimously directed Mr. Leslie to prepare an anti-encampment ordinance for the commissioners’ consideration at a future meeting.

Mr. Young updated the commissioners on the status of the County’s \$50,000 pledge to support the Salisbury Regional Airport’s application for a U.S. Department of Transportation grant to support a new flight route from SBY to Orlando International Airport, which would benefit the region. He confirmed that Wicomico County also approved a \$50,000 match, that USDOT awarded the requested funds, and that SBY is currently in negotiations with an airline carrier to provide the new flight route.

The commissioners reviewed and discussed various board appointments.

Upon a nomination by Commissioner Bunting, the commissioners unanimously agreed to reappoint Steve Kolarik to the Board of Electrical Examiners and Robert Purcell to the Board of Zoning Appeals.

Upon a nomination by Commissioner Bunting, the commissioners unanimously agreed to appoint Dorothy Shelton-Leslie to the Commission for Women.

Upon a nomination by Commissioner Elder the commissioners unanimously agreed to reappoint Kerrie Bunting to the Local Development Council for the Ocean Downs Casino and Thomas Babcock to the Board of Zoning Appeals, and appointing Carl Smith to the Housing Review Board.

Upon a nomination by Commissioner Purnell, the commissioners unanimously agreed to reappoint Felicia Green to the Housing Review Board, Betty Smith to the Planning Commission, and Darlene Bowen to the Commission for Women.

Upon a nomination by Commissioner Fiori, the commissioners unanimously agreed to reappoint Stacey Esham to the Agricultural Reconciliation Board, Duane Duncan to the Board of Electrical Examiners, and Don Furbay to the Solid Waste Advisory Committee.

The commissioners recessed for 10 minutes.

Pursuant to the recommendation of Mr. Leslie and upon a motion by Commissioner Abbott, the commissioners unanimously agreed to coordinate a plan with Health Officer Becky Jones to develop a local opioid abatement plan to address how to expend approximately \$838,000 to be awarded to the County as part of the national opioid settlement.

Pursuant to the request of Mr. Young and upon a motion by Commissioner Bunting, the commissioners unanimously agreed to send a letter requesting representatives from the Maryland Department of Natural Resources' (DNR) Office of Coastal and Ocean Management attend an upcoming commissioners' meeting to discuss their plan to compensate commercial fishermen who will lose their businesses and livelihood if the State approves an application by US Wind to construct a pier in the West Ocean City commercial harbor. Approval of the application would precipitate the construction of an operation and maintenance facility in place of the only two operations where commercial fishermen can offload and sell their catches.

Pursuant to the recommendation of Mr. Young and upon a motion by Commissioner Elder, the commissioners unanimously authorized staff to develop an arrangement for the Snow Hill mayor and council to utilize the board room, adjacent to the commissioners' chambers, for their town meetings on the second Tuesday of each month at 7 p.m. and on the first and last Tuesday of each month for work sessions at 5 p.m. Mr. Young stated that staff will work with the town to address staffing of the security vestibule, any potential schedule conflicts, and determine if the town would like to piggyback on the County's contract with Swagit to record and edit town meetings. In response to questions by Commissioner Bunting, Mr. Young agreed to develop a cost-neutral arrangement.

The commissioners conducted a work session with Health Officer Becky Jones, Environmental Health Director Ed Potez and Environmental Health Food Program Supervisor Ryan Hayward to address questions from their August 20 meeting concerning the regulation of mobile food vendors within four categories: reciprocity; like events; terms, definitions, and fees; and national certification requirements. Recreation and Parks Director Kelly Rados and Deputy Director Jacob Stephens were also in attendance. Mr. Young advised that since August 20 staff has met with Recreation and Parks officials and many mobile food vendors to identify certain regulations that are putting Worcester County at a competitive disadvantage when hosting special events, like sports tournaments.

With regard to reciprocity, Ms. Jones stated that great strides have been made to find common ground to address COMAR requirements for NFS equipment, specifically smokers. She reviewed updated language regarding non-NSF equipment, which was developed by the three

Lower Eastern Shore health officers, amended by County Attorney Roscoe Leslie, and is being reviewed by the assistant attorney general who is expected to issue an opinion within about three weeks. Commissioner Bunting questioned how many additional mobile food vendors would benefit from this change. In response to a question by Commissioner Bertino, Ms. Jones stated that the vendors would still be required to adhere to COMAR's safe food standards.

In response to questions by Commissioner Young, Ms. Jones advised that Worcester County has 16 mobile food vendors, seven of them serve actual food, three are reciprocity licenses in good standing, one reciprocity application was submitted yesterday, and one regular plan review was submitted last week. Mr. Hayward advised that reciprocity is for a whole mobile unit, not an individual piece of equipment. In response to a question by Commissioner Elder, Mr. Hayward stated that a pull behind unit cannot be considered as part of a mobile unit, which must be self-contained. If a pull behind smoker is part of a licensed brick and mortar facility in another county, it could be used for a special event in Worcester County, provided they fill out a temporary event application for each event they plan to operate during, and submit a signed county agreement covering a non-NSF smoker.

In response to questions by Commissioner Abbott, Ms. Jones stated that Smash Brothers in New Church appears to meet the COMAR requirements to be considered a permanent facility and should qualify to operate in Worcester County provided they meet all other regulations under COMAR. In response to questions by Commissioner Fiori, Ms. Jones stated that Health Department staff just want vendors to be compliant with COMAR, and their staff work very hard to help all applicants become compliant; however, they can only help vendors who actually contact them directly. In response to questions by Mr. Young, Mr. Hayward stated that any trailer served by water and sewer or well and septic would be considered to be a brick-and-mortar structure.

With regard to restrictions on "like" events, Mr. Young advised that the County is losing tournaments and field rentals to Wicomico County, and he questioned where this three-day limitation on like events is located in COMAR. Ms. Jones advised that the County ties this to recreational for up to 30 cumulative, not consecutive, days. For example, for purposes of issuing a license, each weekend would be considered a single event. In response to questions by Commissioner Bertino, Mr. Hayward stated that an individual vendor is permitted to operate up to 30 days each calendar year in the same location, a two-day event would be considered one event and count as one fee, but it would count as two of the thirty days. Any Worcester County licensed mobile unit may take part in temporary events without the need for additional licensing; however, a vendor outside the County would be limited to the 30-day requirement. In response to questions by Mr. Young, Mr. Hayward confirmed that would include a Wicomico County food truck with reciprocity. Mr. Hayward advised that the definition of recreational is found under COMAR Section 10-15-03-02. In response to a question by Mr. Leslie, Mr. Hayward advised that the 30-day rule is identified under definitions (28) and temporary food service facilities (80).

With regard to terms and definitions, trainings, and fees, Mr. Young stated there seems to be major discrepancies between non-profit and for-profit vendors and he questioned the number of participants needed to schedule a training. Mr. Hayward advised that non-profits may submit applications five days prior to an event without being charged a fee. For-profit, though required to apply 10 days ahead of an event, may still apply within five days and pay a late fee.

In response to comments by Mr. Young regarding temporary events, Ms. Jones advised that in FY23 Somerset issued 64, Wicomico issued 179, and Worcester issued 388 temporary

event licenses. Mr. Hayward stated that the definition of a temporary event is identified in COMAR. Mr. Hayward and Ms. Jones addressed other questions, including late fees, vendor paperwork, reduced licensing fees, and temporary training events. Mr. Hayward advised that in 2023 the County certified 78 people, and they have certified over 50 so far this year, including 32 individuals who attended a training class last night. He stated that the goal is to certify as many individuals as possible at once, and though they host only two classes a year at this time, the number of classes offered is interest driven. In response to questions by Commissioner Bunting, Mr. Hayward stated that the training is open to all who want to participate, and last night 100% of the participants passed the 10-question test.

With regard to NSF certification, Mr. Hayward advised that NSF and alternative organizations can certify a piece of equipment. These professionals are engineers who evaluate whether individual pieces of equipment meet all the certification requirements. He advised that fire departments are considered non-profit, and in COMAR they are not held to the same standards (not required to utilize NSF-certified equipment because they are not being used to the same extent as a for-profit), and they are not required to be licensed, but they are required to meet food temperature requirements. He stated that a consumer has a right and responsibility to ask for a license from vendors when buying food from roadside stands. In response to a question by Commissioner Abbott, Mr. Hayward stated that a non-NSF fryer would not be included in this reciprocity agreement.

In response to questions by Mr. Young regarding an individual who only operates a food truck as a side hustle at special events, like ball tournaments, Mr. Hayward stated that such an individual is recognized in COMAR as a for-profit organization and is held to the same standards as all other for-profit operators. He stated that the Health Department wants to work with vendors, but their ultimate responsibility is to enforce State regulations as written.

Following further discussion, Commissioner Bertino requested Health Officials provide the commissioners with the report from the attorney general and a written understanding of today's discussion, so they may provide understandable and accurate information on this topic to vendors who contact them. Ms. Jones agreed and said Health Department staff would also post answers to related frequently asked questions on the Health Department's website. She concluded that COMAR can be overwhelming and encouraged vendors to contact her office with questions. The commissioners thanked Ms. Jones and her staff for meeting with them.

Commissioner Purnell requested the commissioners conduct a work session with representatives from the Health Department, Department of Social Services, and the Sheriff's Office to address matters of homelessness. Commissioner Bertino recommended the commissioners conduct this work session prior to staff developing language for the proposed encampment legislation.

The commissioners answered questions from the press, after which they adjourned to meet in closed session.

Following a motion by Commissioner Fiori, seconded by Commissioner Bunting, with Commissioner Mitrecic absent, the commissioners unanimously voted to meet in closed session at 12:42 p.m. in the Commissioners' Conference Room to discuss legal and personnel matters permitted under the provisions of Section 3-305(b)(1) and (7) of the General Provisions (GP)

Article of the Annotated Code of Maryland and to perform administrative functions permitted under the provisions of Section GP 3-104. Also present at the closed session were Chief Administrative Officer Weston Young, Deputy Chief Administrative Officer Candace Savage, County Attorney Roscoe Leslie, Public Information Officer Kim Moses, and Human Resources Director Stacey Norton. Topics discussed and actions taken included the following: a personnel matter; receiving legal advice from counsel; and performing administrative functions.

Following a motion by Commissioner Bunting, seconded by Commissioner Elder, the commissioners unanimously voted to adjourn their closed session at 1:57 p.m. to meet again on December 3, 2024.